IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Con.Case(C).No. 1584 of 2006(S)

AGAINST THE JUDGEMENT IN WPC.3029/2006 Dated 03/02/2006

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PETITIONERS:
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1. V.J.DHARMAPALAN, AGED 59,
IST GRADE SURVEYOR HIGHER GRADE (RETIRED),
OFFICE OF THE SUPERINTENDENT OF RE-SURVEY,
ATTINGAL, MADHU BHAVANAM, THIRUVANANTHAPURAM.

2. V.R.MATHAN, ASSISTANT DIRECTOR OF
SURVEY (RETIRED) OFFICE OF THE ASSISTANT
DIRECTOR OF SURVEY, (RESURVEY), MALAPPURAM,
VAZHAPILLY HOUSE, P.O.PUVATHUR, THRISSUR-680 508.

3. P.G.VASU, SURVEY SUPERINTENDENT (RETIRED)
OFFICE OF THE SUPERINTENDENT OF RESURVEY
(RANGE) WADAKKANCHERY, PALAKADY HOUSE,
P.O.VADANAPPALLY, THRISSUR DISTRICT-680 614.

4. P.V.SEBASTIAN, SURVEY SUPERINTENDENT
(RETIRED) OFFICE OF THE SUPERINTENDENT OF
RE-SURVEY, CHERPU, THRISSUR, PALAYOOR HOUSE,
STO BHAVAN, P.O.PERUVALLUR, VLG PUVATHUR,
THRISSUR DISTRICT-680 508.

5. M.U.CLARA, W/O.C.T.DEVASSY,
IST GRADE SURVEYOR (RETIRED), OFFICE OF THE
SUPERINTENDENT OF SURVEY, AYYANTHOL,
THRISSUR, CHITTILAPALLY HOUSE, PAYYAPUR, THRISSUR-680 552.

6. C.P.ALIA, HEAD SURVEYOR (RETIRED),
OFFICE OF THE SUPERINTENDENT OF RE-SURVEY
(RANGE), WADAKKANCHERY, CHIRIYANKANDATH HOUSE,
P.O.PUTHURUTHY, WADAKKANCHERY, THRISSUR-680 623.

BY ADV. SMT.I.SHEELA DEVI
SMT.N.SINDHU THANKAM

RESPONDENT:

P.P.GOPI, S/O.GOPALAN,
AGED 55, NOW WORKING AS DIRECTOR OF SURVEY
AND LAND RECORDS, THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SMT.MEERA

THIS CONTEMPT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

Cont.Case (C)No.1584 of 2006

Dated, this the 5th day of September, 2007

JUDGMENT

H.L.Dattu, C.J.

Petitioners in W.P.(C) No.3029 of 2006 are the complainants in this contempt petition filed under Sections 11 and 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India. The complainants request us to initiate appropriate contempt proceedings against the respondent for his so-called wilful and deliberate disobedience of the orders and directions issued by this Court while disposing of W.P.(C) No.3029 of 2006 dated 3rd February, 2006.

(2) Notice of this contempt petition was ordered to be issued and served on the respondent and he has entered appearance through learned Government Pleader. The respondent has filed two affidavits before us. In the additional affidavit filed before us today, the respondent/contemner has stated at paragraphs 4, 5, 6 and 7 as under:

> "4. In respect of the 1st petitioner Shri.V.J.Dharmapalan, after-refixation of his pay, the revised pensionary benefits were authorised to him by the Accountant General as per Pension verification report No.P12/Revn/46/AZ/06-07/567 dated 21.8.2006. In his case, an amount of Rs.33718/- was disbursed to him as pay arrears as per the report submitted to the Office of the Director of Survey & Land Records by the Superintendent of Survey & Land Records (RS) Attingal.
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> 5. In respect of the second and third petitioners namely Sri.V.R.Mathan & Sri.P.G.Vasu, their pay were already been re-fixed and the revised pension proposals were forwarded to the Accountant General, Kerala. With a view to comply with the directions of this Hon'ble Court in respect of the petitioners, letters were sent to the Accountant General, Kerala for authorising the benefits to the petitioner on a priority basis. True copies of the said letters dt.16.8.07 and 20.8.07 are produced herewith and marked respectively as Annexures A1 & A2.

> 6. In respect of the 4th petitioner Sri.P.V.Sebastian, the revised pension proposal forwarded from the Office of the Director of Survey & Land Records has been authorised by the Accountant General on 13.8.07 as per Pension Verification Report No.P10/Revn/121/AK/06-07. Thereafter, the Service book of the petitioner has been returned to the Re-survey Superintendent, Wadakkancherry to enable him to draw and disburse the pay arrears. The Re-survey Superintendent, Wadakkancherry has submitted the bill for Rs.61310/- to the Sub Treasury Office, Wadakkancherry for drawing the amount and on 1.9.07 the amount covered by the bill was withdrawn by the 4th petitioner, as per the fax message received from the Superintendent dt.1.9.07.
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> 7. In respect of the 5th petitioner, Smt.M.U.Clara & the 6th petitioner, Smt.C.P.Alia they have submitted representations before the Assistant Director of Survey (Range), Thrissur respectively on 5.1.2007 and 6.1.2007. The said representations were subsequently forwarded to the Office of the Director of Survey & Land Records. True copies of the said representations submitted by the 5th and 6th petitioners are produced herewith and marked respectively as Annexure B1 & B2. As per Annexure B1, the 5th petitioner, Smt.M.U.Clara has requested for re-fixation of her pay in terms of the re-option submitted by her. She did not require any further action in the matter in case re-fixation based on such re-option is not possible or would not be favourable to her. The representation of the 6th petitioner was also on the aforesaid lines. The dates of re-option proposed by the said petitioners could not be accepted because it falls beyond the admissible period. In respect of re-options to make a date admissible, it should fall within the period of the concerned Pay revision order. Inadmissibility of their dates of re-option was intimated to them and it was, in fact, in the said circumstances that they requested not to take any action in re-fixation in case it is not possible to re-fix their pay with effect from the date of their re-option or re-option based on the government guidelines is not favourable to them."

(3) In so far as petitioners 1 to 4 are concerned, the respondent has given the relief as directed by this Court while disposing of W.P.(C) No.3029 of 2006. In so far as petitioners 5 and 6 are concerned, the respondent has brought to our notice that representations had been filed by them informing the respondent in the contempt petition that in the event of refixation of their pay

scales, if it is not going to be beneficial to them, their case need not be considered as directed by this Court in W.P.(C) No.3029 of 2006. Keeping in view the representations so filed by petitioners 5 and 6, the respondent has not passed any orders as directed by this Court in W.P.(C) No.3029 of 2006.

(4) Since the respondent has proceeded on the representations made by petitioners 5 and 6, it cannot be said that he has committed any contempt of Court for which we should initiate proceedings under Sections 11 and 12 of the Contempt of Courts Act. Therefore, taking the affidavits filed by the respondent on record, the contempt proceedings are dropped.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns